

**DOCKET NO. 108513.00015**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
REQUEST FOR FILING RULE 53 CONTINUATION/DIVISIONAL APPLICATION**

In re Application of: Tomich, et al.

This is a request for a:

Continuation )  
X Divisional ) application filed under 37 CFR 1.53(b)

of U.S. patent application:

Serial No. 09/435,657

Filed: November 8,  
1999

Examiner: unknown

Group: 2739

**Title: PHOTONIC HOME AREA NETWORK**

**Mail Stop Patent Application  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**

## “EXPRESS MAIL”

Date of Deposit: February 24, 2004

Mailing Label No. EV 329716722 US

Dear Sir:

- X   1. Attached are:
- X   Specification, claims and abstract (   31   pages) (**must be attached**)
- X   Drawings   10   sheet(s) including Figures   1-10   ;
- X   1A. Always X one box, only:
- 1a. Newly executed oath or declaration (original or copy) of        pages.
- X   1b. A copy of the signed declaration as originally filed in the prior application is attached.
- 1B. This application is filed by less than all of the inventors named in the prior application. Petition is hereby made requesting deletion as inventor(s) of the following who is/are **not** inventor(s) of the invention being claimed in this application:
- X   1C. Incorporation by reference:  
The entire disclosure of prior application 09/435,657, from which a copy of the oath or declaration is being supplied under Box 1b is considered as being a part of the disclosure of the accompanying application and is hereby incorporated by reference herein.

- \_\_\_\_\_ 1D. A declaration is not being supplied at this time. A declaration will be executed in due course and forwarded in accordance with 37 CFR 1.53(b) and 37 CFR 1.53(f).
- \_\_\_\_\_ 2. Transfer the drawings from the prior application to this application and **abandon** said prior application as of the filing date accorded this application. A third copy of this letter is attached for filing in the prior application file.
- \_\_\_\_\_ 3. Priority is claimed under 35 U.S.C. 119/365 based on filing in \_\_\_\_\_ (country).

Application No.	Filing Date	Application No.	Filing Date
(1)		(2)	
(3)		(4)	
(5)		(6)	

- \_\_\_\_\_ a. \_\_\_\_\_ (No.) Certified copy/copies attached.
- \_\_\_\_\_ b. Certified copy/copies previously filed on \_\_\_\_\_ in U.S. Application No. \_\_\_\_\_.
- \_\_\_\_\_ c. Certified copy/copies filed during International stage of PCT/\_\_\_\_\_.
- \_\_\_\_\_ d. Priority is also claimed from PCT/\_\_\_\_\_ filed \_\_\_\_\_.
- X 4. Prior application is assigned to "Throughput Holdings, Inc." by means of an Assignment recorded on January 27, 2000 at Reel 010578, Frame 0822.
- \_\_\_\_\_ 5. Attached is an Assignment and Cover Sheet. Please return the recorded Assignment to the undersigned. (NOTE: add assignment filing fee below.)
- X 6. The power of attorney in the prior application is to at least:  
Robert C. Klinger, Reg. No. 34,365  
Jackson Walker L.L.P.  
2435 North Central Expressway  
Suite 600  
Richardson, TX 75080
- \_\_\_\_\_ 7a. Recognize \_\_\_\_\_ as having associate power of attorney.  
(Name and Reg. No.; Address as in item 8 unless otherwise indicated)
- \_\_\_\_\_ 7b. \_\_\_\_\_ was recognized as associate power of attorney in the parent application.
- X 7c. Since a power does not appear in the original papers, a copy of the power in the prior application is attached.

- X 8. Address all future communications to:  
Raffi J. Gostanian, Jr.  
Jackson Walker L.L.P.  
2435 North Central Expressway  
Suite 600  
Richardson, TX 75080  
Telephone: 972-744-2940  
Facsimile: 972-744-2909
- \_\_\_\_ 9. Amend the specification as set forth in the attached Preliminary Amendment.
- \_\_\_\_ 10. Small entity status is hereby claimed.
- X 11. **PETITION to extend the life** of the above prior application to at least the date hereof. (One box must be X'd)  
\_\_\_\_ is being concurrently filed in that prior application.  
\_\_\_\_ was previously filed in that prior application (Check length of prior extension).  
X \_\_\_\_ is not necessary for copendency (**Double check before X'ing this box**).
- X 12. **INFORMATION DISCLOSURE STATEMENT:** Attached is Form PTO-1449 listing documents cited by Applicant or the PTO in the parent application(s) relied upon under 35 U.S.C. 120 and referenced above. Per Rule MPEP 609 copies of those documents are not required now. Please fully consider those documents and advise that they have been considered in this new application by returning a copy of the enclosed Form PTO-1449 with the Examiner's initials in the left column per MPEP 609.
- \_\_\_\_ 13. Attached is a Rule 103(a) Petition to Suspend Action.
- \_\_\_\_ 14. **PRELIMINARY AMENDMENT to be entered before fee calculation:** (Do not make amendments here except for correction of improper multiple dependencies or cancellation of whole claims or multiple dependencies for purpose of reducing the filing fee per MPEP §§ 506 and 607; do not cancel all claims).  
Prior to a first Office Action, Kindly amend the Application as follows:  
\_\_\_\_ Please cancel Claims \_\_\_\_\_  
\_\_\_\_ Please retain Claims \_\_\_\_\_  
\_\_\_\_ Please add Claims \_\_\_\_\_
- \_\_\_\_ 15. The following Filing Fee calculation is based on the claims filed less any claims canceled by the Preliminary Amendment of Item 14.

FEE CALCULATION							FEE
Basic Fee	Number Filed	Design Appln./ Utility Appln.	Number Extra	Design Small /Large Entity Rate \$165/330	or	Utility Small/Large Entity Rate \$385/770 =	\$385.00
Total Claims	16	-20 =	<u>0</u> (at least 0)	X 9	or	X 18	\$00.00
Independent Claims	3	- 3 =	<u>0</u> (at least 0)	X 42	or	X 84	\$00.00
MULTIPLE DEPENDENT CLAIM PRESENT? YES _____ NO <u>X</u>							\$0
If assignment is "x'd" (Item 5) add recording fee (\$40.00)							\$ 00.00
If "petition" Item 11 above is "X'd" add petition fee (\$130.00)							\$ 00.00
Total Filing Fee							\$385.00

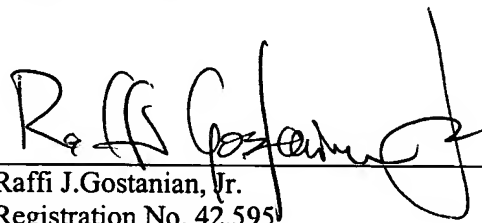
- X 16. ATTACHED: (other) acknowledgment postcard
- X 17. A check in the amount of \$385.00 to cover the TOTAL FEE is attached. Please charge any deficiency or credit any overpayment to Deposit Account No. 50-1752.
- \_\_\_\_\_ 18. Please charge Deposit Account No. \_\_\_\_\_ in the amount of \$\_\_\_\_\_ to cover the TOTAL FEE. This sheet is attached in duplicate.

**CHARGE STATEMENT:** The Commissioner is hereby authorized to charge any missing or insufficient fee(s) filed, or asserted to be filed, or which should have been filed herewith, OR credit any overpayment to Deposit Account No. 50-1752, for which purpose a duplicate copy of this sheet is attached.

- X 19. Any inquiries regarding this communication may be directed to the undersigned patent agent at the telephone number shown below.

Respectfully submitted,

By:

  
 Raffi J. Gostanian, Jr.  
 Registration No. 42,595

JACKSON WALKER L.L.P.  
 2435 N. Central Expressway  
 Suite 600  
 Dallas, Texas 75080  
 Tel: (972) 744-2940  
 Fax: (972) 744-2909